

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**ANDREW JAMES**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO.: 4:22-cv-123-DMB-JMV**

**LULA STONE, LPN, et al.**

**DEFENDANTS**

**ORDER LIFTING STAY AND AMENDING SCHEDULING ORDER**

This matter is before the court, *sua sponte*, consistent with an order [50] entered on December 14, 2023, by the District Judge resetting the trial date for August 12, 2024. In light of the new trial date, the stay is hereby lifted, and the scheduling order is amended as detailed below.

On April 5, 2023, the undersigned entered an Order [45] granting a motion to stay [37] filed by Defendants. The stay was entered on the basis of a summary judgment motion [35] filed by Defendants, in which they alleged Plaintiff failed to exhaust his available administrative remedies before proceeding to file suit. *See, e.g., Nottingham v. Finsterwald*, 582 Fed. App'x 297, 297 (5th Cir. 2014) (per curiam) (citing *Dillon v. Rogers*, 596 F.3d 260, 272-73 (5th Cir. 2010)). However, given the new trial date, the undersigned, in her discretion, holds that the stay should be lifted, and new case management deadlines set.<sup>1</sup>

**IT IS THEREFORE ORDERED** that the stay on the above-styled matter is hereby **LIFTED**. The case management deadlines are amended as follows: Plaintiff's expert designation deadline is reset to January 30, 2024; Defendants' expert designation deadline is reset to

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<sup>1</sup> Though the affirmative defense of exhaustion may give rise to a stay, the stay is discretionary in nature. *See Dillon*, 596 F.3d at 272-73.

February 12, 2024; the discovery deadline is reset to March 14, 2024; the Daubert motions deadline is reset to April 1, 2024; and the dispositive motions deadline is reset to April 12, 2024.

**SO ORDERED**, this the 15th day of December, 2023.

/s/ Jane M. Virden  
**UNITED STATES MAGISTRATE JUDGE**